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N.J. BOARD OF NURSING

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF NURSING

IN THE MATTER OF THE SUSPENSION :	Administrative Action
OR REVOCATION OF THE LICENSE OF :	
:	
SHERRY L. SCHMIDT, RN :	FINAL ORDER
License # 26NO11771000 :	OF DISCIPLINE
:	
TO PRACTICE NURSING IN THE :	
STATE OF NEW JERSEY :	

This matter was opened to the New Jersey State Board of Nursing ("Board") upon receipt of information which the Board has reviewed and upon which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Sherry L. Schmidt ("Respondent") is a Registered Professional Nurse (RN) in the State of New Jersey and has been a licensee at all relevant times.

2. The Board received information that Respondent was arrested, on February 20, 2012, by members of the Westville Police Department and charged with violating N.J.S.A. 2C:35-10(a)(1) (Possession of Controlled Dangerous Substance or Analog), N.J.S.A. 2C:35-10.5(e)(2) (Possession of Prescription Legend Drug or Stramonium Prep), and N.J.S.A. 2C:36-6

(Possess/Distribute Hypodermic Needle).

3. On or about February 21, 2012, the Board sent Respondent a letter to her address of record in Westville, New Jersey, via regular and certified mail, seeking information about her February 20, 2012 arrest. The letter reminded Respondent of her statutory and regulatory duty to cooperate with a Board investigation. The certified mail was returned as unclaimed and the regular mailing was not returned. Respondent failed to reply.

4. Respondent's criminal history includes seven previous arrests and two convictions.

On February 21, 2008, Respondent was arrested twice: once by members of the Westville Police Department and charged with violating N.J.S.A. 2C:35-10(a)(1) (Possession of Controlled Dangerous Substance or Analog) and N.J.S.A. 2C:35-10(c) (Failed to Give Controlled Dangerous Substance to Police); and once by members of the Bellmawr Police Department and charged with violating N.J.S.A. 2C:15-1(a)(1) (Robbery by Force). On July 14, 2008, Respondent was found guilty in the Superior Court of New Jersey, Camden County, of violating N.J.S.A. 2C:20-3 (Theft by Unlawful Taking). The Board is unaware of sentencing.

On November 25, 2007, members of the Deptford Police

Department arrested Respondent and charged her with violating N.J.S.A. 2C:36-2 (Possession of Drug Paraphernalia). On May 21, 2008, the charge was dismissed in Deptford Municipal Court.

On June 15, 2007, members of the Cherry Hill Police Department arrested Respondent and charged her with violating N.J.S.A. 2C:12-1(b)(2) (Aggravated Assault With Weapon). On September 18, 2007, the charge was downgraded and dismissed in the Cherry Hill Municipal Court.

On February 8, 2007, members of the Deptford Police Department arrested Respondent and charged her with violating N.J.S.A. 2C:20-11 (Shoplifting). On June 27, 2008, the charge was dismissed in the Deptford Municipal Court.

On September 17, 2006, members of the Collingswood Police Department arrested Respondent and charged her with violating N.J.S.A. 2C:12-1(b)(5)(a) (Aggravated Assault on Police) and N.J.S.A. 2C:20-11(b)(1) (Shoplifting). On March 7, 2007 in the Collingswood Municipal Court, the charge of Assault was downgraded and dismissed and Respondent was assessed five hundred dollars (\$500). The Board is unaware of the disposition of the shoplifting charge.

On July 16, 2005, members of the Voorhees Police Department arrested Respondent and charged her with violating N.J.S.A.

2C:29-1 (Obstructing Administration of Law). On December 21, 2005 in the Deptford Municipal Court, Respondent was found guilty of a downgraded local ordinance violation and assessed eight hundred twenty-nine dollars (\$829).

5. On March 19 2012, the Board sent a letter to Respondent requesting proof of thirty hours of continuing education required for the biennial renewal period. Respondent failed to reply.

CONCLUSIONS OF LAW

Respondent's failures to respond to the Board's inquiries constitute failures to cooperate with Board investigations, in contravention of N.J.A.C. 13:45C-1.2 and 1.3, which the Board deems professional misconduct within the meaning of N.J.S.A. 45:1-21(e), and thus subjects Respondent to disciplinary action pursuant to N.J.S.A. 45:1-21(h). Respondent's three most recent arrests included charges relating to drugs. Therefore, the Board also finds that a comprehensive substance abuse and mental health evaluation is required to determine whether continued practice may jeopardize the safety and welfare of the public. See N.J.S.A. 45:1-22(f).

Based on the foregoing findings and conclusions, a Provisional Order of Discipline imposing a five hundred dollar

(\$500) civil penalty and suspending Respondent's license to practice nursing in the State of New Jersey was entered on October 19, 2012. Copies were forwarded to Respondent's address of record by means of both regular and certified mail. Neither mailing was returned. The United States Postal Service Track & Confirm system indicates that the certified mail was delivered on October 24, 2012 in Westville, NJ. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the thirtieth day following entry unless Respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor.

Although the record reflects that the Provisional Order was served upon Respondent at her address of record with the Board, no response has been received to date. Accordingly, the Board considered the matter, determined that further proceedings were not necessary and that the Provisional Order should be made final. A licensee cannot evade process by failing to respond.

ACCORDINGLY, IT IS on this 5th day of Feb., 2013,
ORDERED that:

1. Respondent's license to practice nursing is hereby suspended until Respondent fully responds to the Board's inquiries of February and March 2012, provides dispositions for all arrests, provides proof of completion of required continuing education, and until she can demonstrate that she is fit and competent to practice.

2. The Board will not entertain an application for reinstatement from Respondent unless and until Respondent completes a comprehensive mental health and substance abuse evaluation under the auspices of the Recovery and Monitoring Program of the Institute of Nursing (RAMP), demonstrates that she is fit and competent to practice nursing, that she is in full compliance with any agreement with RAMP, that RAMP supports her return to practice, answers all inquiries regarding her arrests to the satisfaction of the Board, and provides proof of completion of required continuing education.

3. A civil penalty in the amount of five hundred dollars (\$500) is hereby imposed upon Respondent for the failure to cooperate with a Board investigation by responding to the Board's letters. Payment shall be made by certified check or

money order payable to the State of New Jersey, delivered to George Hebert, Executive Director, State of Board of Nursing, P.O. Box 45010, Newark, New Jersey 07101. Payment shall be made no later than fifteen (15) days after the entry of any Final Order of Discipline in this matter. In the event Respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law.

4. Respondent shall refrain from practicing nursing and shall not represent herself as a registered professional nurse until such time as her license is reinstated. Any practice in this State prior to reinstatement shall constitute grounds for a charge of unlicensed practice.

5. The Board reserves the right to take further disciplinary action based upon any information received in the future regarding the disposition of arrests, results of the comprehensive mental health and substance abuse evaluation, and Respondent's compliance with required continuing education.

NEW JERSEY STATE BOARD OF NURSING

By: Patricia Murphy
Patricia Murphy, PhD, APN
Board President